

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

| | | |
|---------------------------------------|---|---------------------------|
| Tommie Lee Pixley, |) | C/A No. 6:10-1451-JFA-KFM |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| Phil Anders, 5093; Otis L. Jackson, |) | |
| 5495; M. Powell, 4123; William |) | |
| Zeigler, 4985; Gary Benfield, 4995; |) | |
| Nurse Kelly; Nurse Angie; Nurse |) | |
| Cathy Brown; Captain Charles Baranco; |) | |
| Aiken County Sheriff's Office, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

The *pro se* plaintiff, Tommie Lee Pixley, brings this action pursuant to 42 U.S.C. § 1983. He is a detainee at the Aiken County Detention Center. In his complaint, plaintiff asserts that the defendants violated his constitutional rights and engaged in medical malpractice.

The Magistrate Judge assigned to this action¹ has prepared a thorough Report and Recommendation and opines that the case should be dismissed for failure to state a claim. The Report sets forth in detail the relevant facts and standards of law on this matter, and the

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

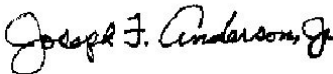
court incorporates such without a recitation and without a hearing.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on June 25, 2010, however, he has not done so within the time limits prescribed. A review of the docket sheet indicates that the copy of the Report mailed to the plaintiff was returned by the Postmaster marked "Undeliverable/Plaintiff no longer at facility." Plaintiff was advised in an earlier order that he must notify the Clerk in writing if his address changes, but the plaintiff has failed to do so.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper and incorporates the Report herein by reference. Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

August 6, 2010
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge